

REMARKS

The Examiner has rejected claims 1, 3-14 under 35 USC § 112, first paragraph, because they make reference to functional derivatives of Ceruloplasmin without specifically defining what is meant this expression. Applicants traverse this rejection.

Applicants submit that the meaning of the expression "functional derivatives of Ceruloplasmin" is obvious for anyone skilled in the art. Further, Applicants submit that it is well established by law that, when one has to interpret some expression in the claims, they may refer to the specification. The specification provides a suitable definition of this expression in the paragraph bridging pages 10 and 11, and in a subsequent paragraph of the specification which gives further details as to the meaning of this expression. Applicants respectfully submit that the withdrawal of such rejection is warranted.

Claims 1, 3-14 are rejected under 35 USC § 103 as being unpatentable over Gokhale in view of Atanasiu. Applicants traverse this rejection. Applicants submit that the teachings of the combined references do not disclose the present invention. There must be some reason for the combination other than the hindsight gleaned from the invention itself. Something in the cited references as a whole must suggest the desirability and thus the obviousness of making the combination. See *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed Cir 1988) Applicants submit that the combined teachings of the cited references do not suggest the present invention as in claim 1.

Further, the consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that a claimed process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure. *University of California v. Synbiotics Corp.*, 29USPQ2d 1463, 1466 (Cal. 1993) Applicants submit that the

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combination of the cited references do not suggest a likelihood that the Applicants' invention would have the synergistic properties. Applicants submit that withdrawal of the obviousness rejection is appropriate.

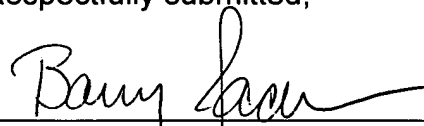
The Office Action rejects claims 1, 3-14 under the jurisdiction created doctrine of double patenting over claims 2 -3, 6 - 13 of co-pending Application Number 10/012,730; now issued as USPN 6,780,842. Applicants traverse this rejection. Applicants would be willing to submit a terminal disclaimer upon an indication of a Notice of Allowability.

Accordingly, Applicants respectfully submit that withdrawal of the rejections is appropriate and the application is in condition for allowance.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number below.

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Respectfully submitted,


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